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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,508	01/04/2002	Doron Chosnek	COMP:0230/FLE P01-3581	6307

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Intellectual Property Administration
Legal Department M/S 35
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EXAMINER

TRAN, NGHI V

ART UNIT	PAPER NUMBER
2151	

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/037,508

Applicant(s)

CHOSNEK ET AL.

Examiner

Nghi V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 09/751,789. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitation of copending Application No. 10/037,508 is overlapping the limitation of copending Application No. 09/751,789.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1, 3-5, 10, 12-14, 19, and 20 are rejected under 35 U.S.C. 102(a) as being anticipated by Sun Fire 6800 Server,

http://sunsolve.sun.com/handbook_pub/Systems/SunFire6800/SunFire6800.html

(hereinafter 6800).

5. With respect to claims 1, 10 and 20, 6800 teaches a headless server [i.e. Sun Fire 6800 Server] having a front [page 1, item 1, i.e. "Front Open View"] and a back [page 1, item 2, i.e. "Rear View"], the server comprising:

- a management processor [page 6, i.e. "controller"];
- a first network connector [page 3, item 3] disposed on the front of the server;
- a second network connector [page 7 and page 33] disposed on the back of the server; and
- a coupling device [page 5, i.e. "Patch Panel"] adapted to couple at least one of the first network connector and the second network connector to the management processor.

6. With respect to claims 3 and 12, 6800 further teaches the first network connector comprises a serial connector [page 3, item 3].

7. With respect to claims 4 and 13, 6800 further teaches the second network connector comprises an Ethernet connector [page 33].
8. With respect to claims 5 and 14, 6800 further teaches the second network connector comprises a serial connector [page 33].
9. With respect to claim 19, 6800 further teaches the rack [page 5] comprises a backplane, and wherein the second network connector is coupled to the backplane.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over 6800 as applied to claims 1 and 10 above, and further in view of Kistler et al., U.S. Patent Application Publication No. 2002/0198934 (hereinafter Kistler).

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12. With respect to claim 2, 6800 is silent on the first network connector comprises an Ethernet connector.

In a console network, Kistler discloses the first network connector comprises an Ethernet connector [216 i.e. NIC].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify 6800 in view of Frostrom by adding an Ethernet connector to the first network connector because this feature enable DHCP support, transmitting and receiving the console traffic via the network [paragraph 0010]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated to modify 6800 in view of Frostrom in order to configure without terminals in some or all operating modes [paragraph 0004].

13. Claims 6-9 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over 6800 as applied to claims 1 and 10 above, and further in view of Frostrom et al., U.S. Patent No. 6,561,827 (hereinafter Frostrom).

14. With respect to claims 6 and 15, 6800 is silent on the coupling device comprises a switch to adapted to alternately couple the first network connector and the second network connector to the management processor.

In a console network, Frostrom discloses the coupling device [11 i.e. "patch panel"] comprises a switch [30] to adapted to alternately couple the first network connector [20] and the second network connector [25] to the management processor.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify 6800 in view of Frostrom by adding a switch to the coupling device because this feature needs for an easy and quick setup [col.1, ln.26]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated to modify 6800 in view of Frostrom in order to reduce the great number of patch cords [col.1, ln.31].

15. With respect to claims 7 and 16, 6800 is silent on the coupling device comprises a control device coupled to the switch to selectively alternate the switch between the first network connector and the second network connector.

In a console network, Frostrom discloses the coupling device comprises a control device [15 i.e. connection interface] coupled to the switch to selectively alternate the switch between the first network connector and the second network connector [col.2, lns.9-57].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify 6800 in view of Frostrom by adding a control device coupled to the switch to selectively alternate the switch between the first and second network connector because this feature needs for an easy and quick setup [col.1, ln.26]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated to modify 6800 in view of Frostrom in order to reduce the great number of patch cords [col.1, ln.31].

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16. With respect to claims 8 and 17, 6800 is silent on the coupling device comprises one of a network hub and a network switch adapted to couple the first network connector and the second network connector to the management processor simultaneously.

In a console network, Frostrom discloses the coupling device comprises one of a network hub and a network switch [30] adapted to couple the first network connector and the second network connector to the management processor simultaneously [col.2, lns.31-34].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify 6800 in view of Frostrom by adding a network hub and a network switch adapted to couple the first and second network connector to management processor simultaneously because this feature needs for an easy and quick setup [col.1, ln.26]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated to modify 6800 in view of Frostrom in order to reduce the great number of patch cords [col.1, ln.31].

17. With respect to claims 9 and 18, 6800 is silent on the coupling device comprises a control device coupled to the one of the network hub and network switch to control communications from the first network connector and the second network connector.

In a console network, Frostrom discloses the coupling device comprises a control device coupled to the one of the network hub and network switch to control

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communications from the first network connector and the second network connector [col.2, lns.31-34 and fig.1].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify 6800 in view of Frostrom by adding a network hub and a network switch adapted to couple the first and second network connector to management processor because this feature needs for an easy and quick setup [col.1, ln.26]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated to modify 6800 in view of Frostrom in order to reduce the great number of patch cords [col.1, ln.31].

Response to Arguments

18. Applicant's arguments filed July 01, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that "the Examiner has failed to particularize any disclosure in the SunFire reference having an actual publication date prior to the filing date of the present application." In the SunFire's reference has an actual publication date (i.e. October 2001 which printed on pages 12, 18, and etc.) prior to the filing date of the present application (i.e. January 04, 2002).

Conclusion

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19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi V Tran whose telephone number is (571) 272-4067. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi V Tran
Patent Examiner
Art Unit 2151

NT


ZARNI MAUNG
SUPERVISORY PATENT EXAMINER